



Express Mail Label No.

Dated: _____

Docket No.: 04280/100M321-US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Alan J. Korman *et al.*

Allowed: November 26, 2004

Application No.: 09/644,668

Confirmation No.: 5400

Filed: August 24, 2000

Art Unit: 1644

For: HUMAN CTLA-4 ANTIBODIES AND
THEIR USES

Examiner: Ilia I. Ouspenski

**REQUEST FOR PATENT TERM
ADJUSTMENT UNDER 37 C.F.R. §§ 1.705(b)**

MS Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants, through the undersigned attorneys/agents, hereby request reconsideration of the Patent Term Adjustment (“PTA”) indicated in the Notice of Allowance for this application.

Applicants respectfully submit that the PTA indicated in the Notice of Allowance is incorrect, and that the correct Patent Term Adjustment to date (February 28, 2005) is actually 514 days.

Moreover, if the patent issues on June 7, 2005 (*i.e.*, on the Tuesday before the date that is 28 weeks after the November 26, 2004 mailing date of the Notice of Allowance), then the Patent Term Adjustment will be 613 days. A detailed statement of the facts involved is set forth below, starting on page 3 of this document and pursuant to the requirements of 37 C.F.R. §§ 1.705(b)(2)(i) - (iv).

The Issue Fee Transmittal for this patent application accompanied this submission, along with a check in the amount of **\$1,600.00** for payment of (i) the estimated Issue Fee (\$1,400.00); and

03/03/2005 RMEBRAH1 00000107 09644668

02 FC:1455

200.00 OP

Application No.: 09/644,668

- 1 -

Docket No.: 04280/100M321-US1

(ii) the \$200.00 fee required under 37 C.F.R. §§ 1.705(b)(1) and 1.18(e). Copies of the following documents are also attached hereto, for the Examiner's convenience when considering this request:

Tab A: the USPTO's Patent Term Adjustment ("PTA") History for this application, as downloaded from the Patent Application Information Retrieval (PAIR) WEB site on February 25, 2005;

Tab B: copy of "Withdrawal of Previously Sent Notice" mailed by the USPTO on October 2, 2001 for this patent application; and

Tab C: copy of Interview Summary (Form PTOL-413) for Applicants' personal interview with Examiner Jessica H. Roark on March 18, 2004.

Applicants note that this Request includes a request for reinstatement of at least part of the period of adjustment reduced by the USPTO. As explained below, however, these reductions are believed to have been erroneously made by the USPTO and are not due to any actual failure of Applicants to engage in reasonable efforts to conclude prosecution of this application as set forth in 37 C.F.R. § 1.704(b). Applicants therefore believe that this Request under Rule 705(b) is sufficient, and respectfully decline to submit a Request under Rule 705(c). Should it be determined, however, that a Request under Rule 705(c) is required to reinstate any part of the period of adjustment that is requested here, the Applicants respectfully request that this submission also be considered as a Request pursuant to Rule 705(c), and that the required fee be charged to Deposit Account No. 04-0100 of their undersigned Attorneys/Agents.

It is believed that no additional fee is required for this submission. However, should the U.S. Patent and Trademark Office determine that any additional fee is required or that a refund is due for this application, then the Commissioner is hereby authorized and requested to charge the required fee(s) and/or credit any refund(s) due to the above-mentioned Deposit Account No. 04-0100.

STATEMENT OF THE FACTS INVOLVED

On November 26, 2004, the U.S. Patent and Trademark Office mailed a Notice of Allowance for this application stating that “[t]he Patent Term Adjustment to date [November 26, 2004] is 6 day(s).” The Notice of Allowance also states that:

If the issue fee is paid on the date that is three months after the mailing date of this notice [*i.e.*, on Monday, February 28, 2005] and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice [*i.e.*, on June 7, 2005], the Patent Term Adjustment will be six days.

The detailed Patent Term Adjustment History calculated by the U.S. Patent and Trademark Office for this application (hereinafter referred to as the “PTA History”)¹ is attached hereto at Tab A, and reveals that the Patent and Trademark Office calculated a patent term adjustment of 419 days for “USPTO delay,” reduced by 413 days for “applicant delay.”

The U.S. Patent and Trademark Office’s calculation of the Patent Term Adjustment is incorrect, as explained in detail below. The correct Patent Term Adjustment to date (February 28, 2005) is at least 514 days. If the patent issues from this application on June 7, 2005 (the Tuesday before the date that is 28 weeks after the November 26, 2004 mailing date of the Notice of allowance) then the total Patent Term Adjustment will be at least 613 days.

A. Statement of the Correct Patent Term Adjustment and the Relevant Dates For Which an Adjustment Is Sought (37 C.F.R. §§ 1.705(b)(2)(i) and (ii))

This application is entitled, to date, to a period of adjustment under 37 C.F.R. § 1.702(b) that is 554 days -- the number of days in the period beginning on August 25, 2003 (the day after the date that is three years after the August 24, 2000 date on which this application was actually filed) and ending today (February 28, 2005). *See* 37 C.F.R. § 1.703(b). If the patent issues from this

¹ The PTA History was downloaded from the Patent Application Information Retrieval (PAIR) WEB site on February 25, 2005.

application on June 7, 2005 (*i.e.*, the Tuesday before the date that is 28 weeks after the November 26, 2004 mailing date of the Notice of Allowance), the patent will be entitled to a period of adjustment under 37 C.F.R. § 1.702(b) that is **653 days** -- the number of days in the period beginning on August 25, 2003 and ending on June 7, 2005.

The periods of adjustment calculated by the USPTO, as set forth in the detailed PTA History at Tab A, appear to be for failures of the USPTO to take certain actions within the time frames set forth in 37 C.F.R. § 1.702(a). However, these periods are believed to overlap with the delay period under 37 C.F.R. § 1.702(b). It is therefore believed that Applicants are not entitled to those additional periods of adjustment, since the period of adjustment would exceed the actual number of days the issuance of the patent has been delayed. *See*, 37 C.F.R. § 1.703(f). However, to the extent that there is found to be no overlap of these time periods and/or that the period of adjustment would not exceed the actual number of days the issuance of the patent has been delayed, then Applicants are also entitled to the additional periods of adjustment under 37 C.F.R. § 1.702(a).

As explained below, the sum of periods calculated under 37 C.F.R. § 1.704 is believed to be no more than 40 days. Hence, the adjustment as specified in 37 C.F.R. § 1.703(f) to which the patent is entitled to date is 554 days, less not more than 40 days – *i.e.*, **514 days**. If the patent issues from this application on June 7, 2005, then the adjustment as specified in 37 C.F.R. § 1.703(f) to which the patent will be entitled is 653 days, less not more than 40 days – *i.e.*, **613 days**.

**B. Statement Regarding Terminal Disclaimer
(37 C.F.R. 1.705(b)(2)(iii))**

This application is not subject to any terminal disclaimer.

**C. Statement of Circumstances Constituting a Failure to Engage in Reasonable Effort to Conclude Prosecution
(37 C.F.R. § 1.705(b)(2)(iv))**

The USPTO's calculation of "applicant delay" and the corresponding reductions to Patent Term Adjustment are also in error. A review of the PTA History (Tab A) shows that the USPTO has identified three events which, according to the USPTO, constitute a failure by

Applicants to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R. § 1.704 (*i.e.*, “applicant delay”). First, the USPTO has characterized Applicants’ submission of the Sequence Listing on November 7, 2001 as a failure to reply to the Notice to File Missing Parts within three months of that Notice’s October 16, 2001 mailing date. The USPTO has also characterized Applicants’ original response to the non-final rejection of this application as “applicant delay,” apparently because the USPTO found that response incomplete as originally filed on November 26, 2003. Finally, the USPTO has also characterized Applicants’ Supplemental Amendment filed March 23, 2004 as “applicant delay.” The USPTO has reduced the Patent Term Adjustment by 295, 40 and 78 days, respectively, for each of these delays. Hence, the Patent Term Adjustment has been reduced for a total of 413 days. Applicants respectfully submit that these reductions calculated by the USPTO are in error. As explained below, the correct, total reduction in Patent Term Adjustment for this application is no more than 40 days.

(1) Applicants’ Submission of the Sequence Listing Did Not Constitute a Delayed Response To the Notice To File Missing Parts

The USPTO, in its calculation of the PTA History for this application (Tab A), has characterized Applicants’ November 7, 2001 submission of the Sequence Listing as “applicant delay” under 37 C.F.R. § 1.704(b). In particular, the USPTO appears have erroneously characterized that submission as a failure to reply to the Notice to File Missing Parts within three months of that Notice’s October 16, 2000 mailing date. The USPTO has therefore incorrectly reduced the Patent Term Adjustment by 295 days -- *i.e.*, the period of time from January 17, 2001 (the day after the date that is three months after the Notice’s October 16, 2000 mailing date) and ending on the day when the Sequence Listing was filed (November 7, 2001). This reduction is incorrect, as explained in detail below.

On October 2, 2001, the USPTO issued a second Notice, entitled “Withdrawal of Previously Sent Notice”², which stated that (Tab B):

² For the Examiner’s convenience, a copy of the PTO’s “Withdrawal of Previously Sent Notice” is attached hereto, at Tab B.

the Notice mailed on 10/16/2000 [*i.e.*, the Notice to File Missing Parts] was sent in error and is hereby withdrawn. A corrected Notice is enclosed. The time period for reply runs from the mail date of the correct Notice [*i.e.*, from October 2, 2001].

Applicants responded to the corrected Notice less than two months later, on November 7, 2001, by submitting the Sequence Listing for this application. Hence, there cannot have been any applicant delay caused by a failure to respond to the original Notice to File Missing Parts within three months of its mailing date. That original Notice was withdrawn. Nor can the Applicants' November 7, 2001 submission of the Sequence Listing constitute any applicant delay. That submission was made less than two months after the October 2, 2001 mailing date of that corrected Notice.

Applicants additionally note that even if the original Notice to File Missing Parts had not been withdrawn, their November 7, 2001 submission of the Sequence Listing cannot have constituted applicant delay under 37 C.F.R. § 1.704(b). As explained above, that Sequence Listing was submitted in response to the corrected Notice mailed October 2, 2001. The original Notice to File Missing Parts (*i.e.*, the Notice mailed October 16, 2000 and subsequently withdrawn) did not require the submission of any Sequence Listing. Moreover, Applicants actually filed a timely and complete response to that original Notice on May 16, 2001. Therefore, even assuming *arguendo* that there had been some applicant delay, that delay cannot have been more than 120 days – *i.e.*, the period of time from January 17, 2001 (the day after the date that is three months after the withdrawn Notice's October 16, 2000 mailing date) and ending on May 16, 2001 when the complete response to that Notice was filed.

For all of the foregoing reasons, Applicants respectfully submit that their November 7, 2001 submission of the Sequence Listing did not constitute any applicant delay under 37 C.F.R. § 1.704. In addition, Applicants submit that there cannot have been *any* applicant delay responding to the original Notice to File Missing Parts, since that Notice was withdrawn by the USPTO. Alternatively, Applicants respectfully submit that even if there had been applicant delay in that response, such delay cannot have been more than 120 days.

**(2) The Delay for Applicants'
Original Response to the Non-Final Rejection**

The USPTO has also characterized Applicants' original response to the non-final rejection of this application as "applicant delay". Specifically, the USPTO apparently considers this a circumstance of applicant delay under 37 C.F.R. § 1.704(c)(7), since the USPTO issued a subsequent Notice on December 17, 2003, stating that the response as originally filed on November 26, 2003 was considered "noncompliant" for failing to comply with the requirements of 37 C.F.R. § 1.121. The USPTO has therefore reduced the Patent Term Adjustment by 40 days for this delay. Applicants do not dispute the USPTO's calculation of this reduction.

**(3) Applicants' Supplemental Amendment Does Not
Constitute "Applicant Delay" Under 37 C.F.R. § 1.704**

The USPTO has also characterized Applicants' Supplemental Amendment filed March 23, 2001, as "applicant delay", and has therefore further reduced the patent term adjustment by 78 days. However, this additional reduction is in error.

The submission of a supplemental reply or other paper after a reply has already been filed may constitute an applicant delay under 37 C.F.R. § 1.704(c)(8). However, the submission of "a supplemental reply or other paper *expressly requested by the examiner* [emphasis added]" is specifically excluded from that rule, and does not constitute a failure of the applicant(s) to engage in reasonable efforts to conclude processing or examination of an application. *Id.* In this instance, the Supplemental Amendment was specifically and expressly requested by Examiner Jessica H. Roark during a personal interview on March 18, 2004 with Applicants' representatives Paul Fehlner, Paul Zagar and Catherine Kara. In particular, the Examiner's attention is respectfully directed to the

Examiner's Interview Summary of that meeting (Form PTOL-413), which is attached hereto at Tab C. In that Interview Summary, Examiner Roark expressly states that (Tab C):

“[the] Examiner requested that Applicant[s] provide a supplemental amendment to address 112-1 rejections [*i.e.*, rejections under 35 U.S.C. § 112, first paragraph].”

Applicants then filed their Supplemental Amendment five days later, on March 23, 2001 and in response to that express request by the Examiner. Hence, Applicants' submission of that Supplemental Amendment does not constitute any failure of Applicants to engage in reasonable efforts to conclude processing or examination of an application. The Patent Term Adjustment therefore should not be reduced for that submission.

(4) Applicants Are Not Aware of Any Other Circumstances Constituting “Applicant Delay” Under 37 C.F.R. § 1.704

Apart from the specific circumstances discussed above, Applicants are not aware of any additional circumstances during the prosecution of this application which may constitute a failure to engage in reasonable efforts to conclude the processing or examination of this application under 37 C.F.R. § 1.704. It is therefore believed that the correct reductions in Patent Term Adjustment should not be more than **40 days** (for Applicants' submission of an “incomplete” response to the non-final rejection). Alternatively, the correct reductions in Patent Term Adjustment cannot be more than 160 days, even if one allows an additional 120 days reduction for Applicants' submission of their complete response to the Notice to File Missing Parts more than three months after the original mailing date of that withdrawn Notice.

D. Conclusion

For all of the foregoing reasons, Applicants submit that this application is entitled to a net Patent Term Adjustment of **514 days** to date. This net adjustment is for failure of the USPTO to issue a patent within three years of this application's actual filing date, pursuant to the requirements of 35 U.S.C. § 154(b)(1)(B) and 37 C.F.R. §§ 1.702(b) and 1.703(b). Hence, if the patent does not issue until June 7, 2005 (*i.e.*, the Tuesday before the date that is 28 weeks after the November 26, 2004 mailing date of the Notice of Allowance), then the patent will be entitled to additional

adjustment for that delay. The total, net Patent Term Adjustment will then be 613 days. This net adjustment also reflects appropriate reductions pursuant to 37 C.F.R. § 1.704, as set forth above. Applicants respectfully request that this application be granted, and that the patent issuing from this application be accorded the appropriate net period of Patent Term Adjustment set forth above.

Respectfully submitted,

Dated: February 28, 2004

By Samuel S. Woodley

Paul F. Fehlner, Ph.D. (Reg. No. 35,135)
Samuel S. Woodley, Ph.D. (Reg. No. 43,287)
Paul M. Zagar (Reg. No. 52,392)
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(212) 753-6237 (Fax)
Attorneys/Agents For Applicant

Attachments:

Tab A: USPTO's Patent Term Adjustment ("PTA") History, as downloaded from the Patent Application Information Retrieval (PAIR) WEB site on February 25, 2005;

Tab B: copy of "Withdrawal of Previously Sent Notice", mailed by the USPTO on October 2, 2001; and

Tab C: copy of Interview Summary for Applicants' personal interview with Examiner Jessica H. Roark on March 18, 2004.

Printer Friendly

09/644,668 HUMAN CTLA-4 ANTIBODIES AND THEIR USES

Patent Term Adjustment History

Patent Term Adjustment (PTA) for Application Number: 09/644,668			
			Days
Filing or 371(c) Date:	08-24-2000	USPTO Delay (PTO):	419
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay(APPL):	413
Post-Issue Petitions (days):	+0	Total PTA:	6
USPTO Adjustment(days):	+0	Explanation Of Calculations	
Patent Term Adjustment History			
Date	Contents Description	PTO(Days)	APPL (Days)
11-26-2004	Mail Notice of Allowance		
11-26-2004	Mail Examiner Interview Summary (PTOL - 413)		
11-23-2004	Notice of Allowance Data Verification Completed		
11-23-2004	Case Docketed to Examiner in GAU		
11-23-2004	Issue Revision Completed		
11-23-2004	Notice of Allowability		
11-16-2004	Examiner Interview Summary Record (PTOL - 413)		
11-16-2004	Date Forwarded to Examiner		
11-05-2004	Amendment/Argument after Notice of Appeal		
11-05-2004	Workflow incoming amendment IFW		
10-05-2004	Mail Advisory Action (PTOL - 303)		
09-30-2004	Advisory Action (PTOL-303)		
09-28-2004	Date Forwarded to Examiner		
09-14-2004	Amendment/Argument after Notice of Appeal		
09-14-2004	Notice of Appeal Filed		
09-14-2004	Workflow incoming amendment IFW		
06-14-2004	Mail Final Rejection (PTOL - 326)	40	
06-10-2004	Final Rejection	↑	
05-20-2004	Case Docketed to Examiner in GAU	↑	
04-06-2004	Case Docketed to Examiner in GAU	↑	
03-30-2004	Date Forwarded to Examiner	↑	
03-23-2004	Supplemental Response	↑	78
02-24-2004	Reference capture on IDS	↑	
02-24-2004	Information Disclosure Statement (IDS) Filed	↑	
01-20-2004	IFW Amended case processing Complete	↑	↑
01-20-2004	Date Forwarded to Examiner	↑	↑
01-05-2004	Response after Non-Final Action	↑	40

12-17-2003	Mail Notice of Informal or Non-Responsive Amendment	↑	↑
12-17-2003	Date Forwarded to Examiner	↑	↑
11-26-2003	Informal or Non-Responsive Amendment after Examiner Action	↑	↑
11-26-2003	Response after Non-Final Action	↑	↑
08-26-2003	Reference capture on IDS	↑	
08-26-2003	Mail Non-Final Rejection	29	
08-25-2003	Non-Final Rejection	↑	
06-16-2003	Date Forwarded to Examiner	↑	
06-16-2003	Date Forwarded to Examiner	↑	
06-12-2003	Supplemental Response	↑	
04-11-2003	Date Forwarded to Examiner	↑	
03-28-2003	Supplemental Response	↑	
03-28-2003	New or Additional Drawing Filed	↑	
03-28-2003	Response to Election / Restriction Filed	↑	
03-28-2003	Request for Extension of Time - Granted	↑	
01-28-2003	Mail Supplemental Restriction / Election Requirement	↑	
01-27-2003	Supplemental Restriction	↑	
01-27-2003	Correspondence Address Change	↑	
01-27-2003	Change in Power of Attorney (May Include Associate POA)	↑	
01-23-2003	Mail Restriction Requirement	↑	
01-22-2003	Requirement for Restriction / Election	↑	
01-14-2003	Case Docketed to Examiner in GAU	↑	
11-20-2002	Date Forwarded to Examiner	↑	
11-18-2002	Response to Election / Restriction Filed	↑	
10-09-2002	Mail Restriction Requirement	350	
09-23-2002	X-Post-Legal Complete Rejection	↑	
09-23-2002	Requirement for Restriction / Election	↑	
05-13-2002	X-Pre-Legal Complete New Case	↑	
05-13-2002	Case Docketed to Examiner in GAU	↑	
05-03-2002	CRF Is Good Technically / Entered into Database	↑	
04-29-2002	Miscellaneous Incoming Letter	↑	
04-29-2002	Application Dispatched from OIPE	↑	
04-29-2002	Application Is Now Complete	↑	
03-01-2002	SEQUENCE ERRORS	↑	
01-28-2002	CRF Does Not Match Application Specification -- Applicant Must Correct	↑	
11-07-2001	Additional Application Filing Fees	↑	295
11-07-2001	A set of symbols and procedures, provided to the PTO on a set of 3 ? inch diskettes in computer read	↑	↑
	A set of symbols and procedures, provided to	↑	↑

11-07-2001	the PTO on a set of computer listings, that describe in		
10-02-2001	SEQUENCE ERRORS	↑	↑
10-16-2000	Notice Mailed--Application Incomplete-- Filing Date Assigned	↑	↑
10-12-2000	Correspondence Address Change	↑	
09-13-2000	IFW Scan & PACR Auto Security Review	↑	
08-24-2000	Additional Application Filing Fees	↑	
08-24-2000	CRF Disk Has Been Received by Preexam / Group / PCT	↑	
08-24-2000	Initial Exam Team nn	↑	

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UNITED STATES PATENT AND TRADEMARK OFFICE

ATS
014643-010510US

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/644,668	08/24/2000	Alan J. Korman	014643-010510US

20350
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

CONFIRMATION NO. 5400

WITHDRAWAL NOTICE



OC00000006811543

Date Mailed: 10/02/2001

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

The Notice mailed on 10/16/2000 was sent in error and is hereby withdrawn. A corrected Notice is enclosed. The time period for reply runs from the mail date of the corrected Notice. We apologize for any inconvenience this caused.

A copy of this notice MUST be returned with the reply.

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

Interview Summary	Application No.	Applicant(s)
	09/644,668	KORMAN ET AL.
	Examiner	Art Unit
	Jessica H. Roark	1644

All participants (applicant, applicant's representative, PTO personnel):

(1) Jessica H. Roark.

(3) Paul Fehlner.

(2) Phillip Gabel.

(4) Paul Fehlner.

Date of Interview: 18 March 2004.

(5) Catherine Kara.

Type: a) Telephonic b) Video Conference
c) Personal [copy given to: 1) applicant

2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.

If Yes, brief description: _____.

Claim(s) discussed: claiming + proposed

Identification of prior art discussed: of record

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: see below

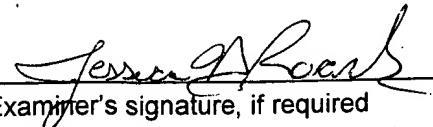
(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

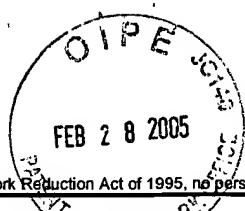
THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Discussed ways to obviate 112-1 N.M rejections by focusing on functional properties.

Examiner requested that Applicant provide a supplemental amendment to address 112-1 rejection. Applicant agreed to file supplemental amendment.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required



Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL For FY 2005

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 1,600.00)

Complete if Known	
Application Number	09/644,668
Filing Date	August 24, 2000
First Named Inventor	Alan J. Korman
Examiner Name	I. I. Ouspenski
Art Unit	1644
Attorney Docket No.	04280/100M321-US1

METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order None Other (please identify): _____
 Deposit Account Deposit Account Number: 04-0100 Deposit Account Name: Darby & Darby P.C.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below Charge fee(s) indicated below, except for the filing fee
 Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 Credit any overpayments

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity	Fee (\$)	Small Entity	Fee (\$)	Small Entity	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 (including Reissues) 50 25
 Each independent claim over 3 (including Reissues) 200 100
 Multiple dependent claims 360 180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
14	- 40 =	x	=			
8	- 12 =	x	=			

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

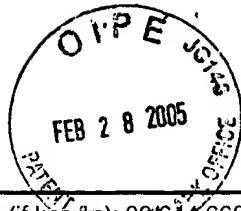
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
	- 100 =	/50 (round up to a whole number) x	=	

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)
 Other (e.g., late filing surcharge): 1455 Filing an application for patent term adjustment 200.00
 1501 Utility issue fee 1,400.00

SUBMITTED BY					
Signature		Registration No. (Attorney/Agent)	43,287	Telephone	(212) 527-7610
Name (Print/Type)	Samuel S. Woodley, Ph.D.			Date	February 28, 2005

Express Mail Label No. Dated: _____



Application No. (if known): 09/644,668

Attorney Docket No.: 04280/100M321-US1

Certificate of Express Mailing Under 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Airbill No. EV 329023933 -us in an envelope addressed to:

MS Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on February 28, 2005
Date

B.W. Lee

Signature

B.W. Lee

Typed or printed name of person signing Certificate

Registration Number, if applicable

Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

- (1) Issue Fee Transmittal (1 page);
- (2) Request for Patent Term Adjustment under 37 CFR 1.705 (b) (9 pages), accompanied by:
Exhibit A: USPTO's Patent Term Adjustment History (3 pages),
Exhibit B: USPTO "Withdrawal of Previously Sent Notice" (1 page),
and
Exhibit C: USPTO Interview Summary (1 page);
- (3) Fee Transmittal (Form PGO/SB/17)(1 page);
- (4) Check No. 7810 in the amount of \$1,600.00; and
- (5) Return Receipt Postcard